

M E M O R A N D U M

To: Ethics and Conduct Subcommittee
From: Lisa Herrick, Sr. Deputy City Attorney
Date: October 24, 2007
Re: Ethics and Conduct Reform Proposal # 15

BACKGROUND

On June 27, 2006, the City Council approved referral of the definition of "contacts" by registered lobbyists to the Sunshine Reform Task Force to determine whether further differentiation between types of contacts and additional information is warranted in the disclosure documents now required of lobbyists.

ANALYSIS

A. Current Version of Lobbying Ordinance

The current version of the Lobbying Ordinance includes the following definitions:

12.12.150 Contact or Contacting

"Contact or contacting" means attendance at a meeting with a City Official or City Official-Elect, or any direct communication with a City Official or City Official-Elect, whether oral, electronic or in writing, including, but not limited to communication through an agent, associate or employee, for the purpose of engaging in lobbying activity.

12.12.170 Lobbying Activity

"Lobbying Activity" means influencing or attempting to influence a City Official or City Official-Elect with regard to a legislative or administrative action of the City or Redevelopment Agency.

- A. "Influencing" means contacting, either directly or indirectly, for the purpose of promoting, supporting, modifying, opposing, causing the delay or abandonment of conduct, or otherwise intentionally affecting the official actions of the City Official or City Official-Elect, by any means, including, but not limited to providing, preparing, processing, or submitting information, incentives, statistics, studies or analyses.

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B. Proposed Amendments to Lobbying Ordinance

The City Attorney's Office is proposing amendments to the following definitions:

12.12.170 Contact or Contacting

"Contact" or "Contacting" means attendance at a meeting that is not open to all members of the public with a City Official or City Official-Elect, or any direct communication with a City Official or City Official-Elect. For the purpose of determining the number of contacts only, multiple identical or substantially similar written communications made by letter, facsimile or electronic transmission to one or more City Officials pertaining to a single legislative or administrative action may be considered a single contact for that legislative or administrative action.

12.12.180 Direct Communication

"Direct Communication" means the following acts directed to a City Official or City Official-Elect: talking to, in person or by telephone, corresponding with, by writing, electronic transmission or facsimile, or the presentation of information such as statistics, analysis or studies. A direct communication may be made through an agent who acts under the supervision, control or direction of a Lobbyist.

12.12.200 Influencing

"Influencing" means to have an effect, or attempt to have an effect, on any action of a City Official or City Official-Elect with regard to one or more administrative or legislative actions by promoting, supporting, opposing, or seeking to modify or delay such action.

12.12.22170 Lobbying Activity

A. "Lobbying Activity" means contacting a City Official or City Official-Elect for the purpose of influencing a legislative or administrative action.

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CONCLUSION

The proposed amendments to the lobbying ordinance include defining "direct communication" broadly to include "talking to, in person or by telephone, corresponding with, by writing, electronic transmission or facsimile, or the presentation of information such as statistics, analysis or studies." The proposed amendments also clarify that for the purpose of determining the number of contacts, multiple identical or substantially similar written communications made by letter, facsimile or electronic transmission to one or more City Officials pertaining to a single legislative or administrative action may be considered a single contact for that legislative or administrative action.

Furthermore, as explained in the Analysis of Ethics and Conduct Proposals, San Jose has substantially similar or more disclosure requirements than other cities of similar size.